

## § 50.24

for losses resulting from an act of terrorism that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism. For example, if an insurer does not cover all types of risks, either because the insurer is outside of direct State regulatory oversight, or because a State permits certain exclusions for certain types of losses, such as nuclear, biological, or chemical events, then the insurer is not required to make such coverage available.

### § 50.24 Applicability of State law requirements.

(a) *General.* After satisfying the requirement to make available coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism, if coverage is rejected an insurer may then offer coverage that is on different terms, amounts, or coverage limitations, as long as such an offer does not violate any applicable State law requirements.

(b) *Examples.* (1) If an insurer subject to State regulation first makes available coverage in accordance with § 50.20 and the State has a requirement that an insurer offer full coverage without any exclusion, then the requirement would continue to apply and the insurer may not subsequently offer less than full coverage or coverage with exclusions.

(2) If an insurer subject to State regulation first makes available coverage in accordance with § 50.20 and the State permits certain exclusions or allows for other limitations, or an insurance policy is not governed by State law requirements, then the insurer may subsequently offer limited coverage or coverage with exclusions.

## Subpart D—State Residual Market Insurance Entities; Workers' Compensation Funds

### § 50.30 General participation requirements.

(a) *Insurers.* As defined in § 50.5(f), all State residual market insurance entities and State workers' compensation

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funds are insurers under the Program even if such entities do not receive direct earned premiums.

(b) *Mandatory Participation.* State residual market insurance entities and State workers' compensation funds that meet the requirements of § 50.5(f) are mandatory participants in the Program subject to the rules issued in this Subpart.

(c) *Identification.* Treasury will release and maintain a list of State residual market insurance entities and State workers' compensation funds at [www.treasury.gov/trip](http://www.treasury.gov/trip). Procedures for providing comments and updates to that list will be posted with the list.

[68 FR 59720, Oct. 17, 2003]

### § 50.33 Entities that do not share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that does not share profits and losses with a private sector insurer is deemed to be a separate insurer under the Program.

(b) *Premium calculation.* A State residual market insurance entity or a State workers' compensation fund that is deemed to be a separate insurer should follow the guidelines specified in § 50.5(d)(1) or 50.5(d)(2) for the purposes of calculating the appropriate measure of direct earned premium.

[68 FR 59720, Oct. 17, 2003]

### § 50.35 Entities that share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that shares profits and losses with a private sector insurer is not deemed to be a separate insurer under the Program.

(b) *Premium and loss calculation.* A State residual market insurance entity or a State workers' compensation fund that is not deemed to be a separate insurer should continue to report, in accordance with normal business practices, to each participant insurer its share of premium income and insured losses, which shall then be included respectively in the participant insurer's